

Kirk Russel Marsh
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IN THE SECOND JUDICIAL DISTRICT COURT IN AND FOR
DAVIS COUNTY, STATE OF UTAH, FARMINGTON DEPARTMENT

In the matter of the marriage of:
LAUREN R. MARSH

and

KIRK RUSSEL MARSH

**PETITION TO MODIFY
CHILD SUPPORT**

Civil No: 184701031

Commissioner: Christina Wilson

Judge: Michael Edwards

Respondent, Kirk Russel Marsh (hereafter “Russel”) hereby petitions this Court for a
modification of child support orders. Relevant Background Information:

1. Respondent, Kirk Russel Marsh (hereafter “Russel”) filed a *Petition to Modify Child Support* with this Court on March 29, 2024 (see Exhibit 1).
2. In his 2024 *Petition*, Russel asked that support orders follow Utah Statutes.
3. All parties were served the *Petition* on March 29, 2024 via the Court’s Electronic Notification system. Russel both filed the *Petition* pro se, and received an electronic notification of service. Lauren, her counsel, and the Court were served via Electronic Notification (see Exhibit 2).
4. On March 29, 2024 Russel filed a federal 42 U.S.C. § 1983 Civil Action for Deprivation of Rights lawsuit against The State of Utah, Judge Michael Edwards and Dana Emmons (see Exhibit 4).
5. In his May 20, 2024 federal filing, Judge Edwards stated “Marsh seeks habeas corpus relief not from this (criminal) conviction but rather because he could be arrested for

failing to pay child support. This is a mere speculative possibility of confinement” (see Exhibit 9, p. 5).

6. In his May 20, 2024, Judge Edwards stated “This state proceeding affords adequate opportunity to raise the issues Marsh brings. Marsh is concerned about the amount of child support he has been ordered to pay - a petition to modify the child support order would address these concerns and is the appropriate avenue by which to remedy these concerns” (see Exhibit 9 p. 6).
7. Edwards also stated “The state proceeding would also provide vehicles for Marsh’s constitutional claims to be heard” (see Exhibit 9, pg 6).
8. On August 13, 2024 Judge Edwards dismissed Russel’s *Petition to Modify*, stating “Based on a review of this file and Rule 4(b) Utah Rules of Civil Procedure, the Court ordered the Petition to Modify filed in this case be dismissed for failure to serve the defendant within 120 days of filing the petition” (see Exhibit 3).
9. The Court’s August 13, 2024 ruling by Judge Edwards explicitly states that the decision was based “upon a review of this file.” Either Judge Edwards did not review the file noting that all parties had been served, or Judge Edwards reviewed the file and chose to improperly dismiss the *Petition* for failure to serve the presumed defendant who was the person filing the *Petition* (see Exhibit 3).
10. Had the Court addressed Russel’s 2024 *Petition to Modify*, Lauren’s current *Motion to Enforce Order and for Sanctions* and *Motion to Remove Mediation Requirements* would be moot.
11. Judge Edwards created a situation wherein Russel has been prohibited from litigating violations to his constitutional rights, by giving arguments against Russel’s right to

federal habeas relief, which Edwards then violated in the state court by improperly dismissing his *Petition to Modify* dated March 29, 2024. This is in violation of 18 U.S. Code § 242 - Deprivation of rights under color of law.

12. Edwards created a situation where he alleged prospective damage to Russel was "mere speculative possibility of confinement" (see Exhibit 9, p. 5) and must be addressed in state proceedings. He then dismissed the state proceedings. Now, as Lauren aggressively seeks Russel's confinement, Edwards maintains control over a situation created by his deviation from laws, statutes and guidelines.

Russel requests the following orders and judgements:

13. Russel respectfully asks this Court to hear his *Petition to Modify Child Support*.
14. Russel asks for retroactive modification of the Findings and Conclusions, as set forth in the Verified Petition to Modify, to follow Utah Statute 78B-12-302 awarding only \$30 per month of child support effective August 16, 2019.
15. Russel asks for retroactive correction to remove the costs to the Respondent of medical and dental insurance premiums, as well as any out-of-pocket costs of medical, dental, orthodontic, or psychiatric care of their minor children above and beyond \$30.
16. Russel asks for retroactive correction to remove the costs to himself for half of mediation.
17. Russel asks for modification of the cost of summer parent time to follow Utah Civil Code 30-3-37(6)(b) to Petitioner and Respondent evenly sharing the cost of summer travel (50/50).
18. Russel asks that the Court follow the law in limiting orders to parties of the suit by removing any and all obligations to Kirk and Shawnee Marsh, thereby restoring Kirk and Shawnee's future rights of due process.

19. Russel exercises his right to have his constitutional claims heard in the state court proceeding, as promised by The Utah Attorney General and Judge Michael Edwards in their May 20, 2024 federal filing entitled *Reply Supporting Defendants Judge Edwards and The State of Utah's Motion to Dismiss* (see Exhibit 7).
20. As the Federal Fourth District Court and Fourth Circuit Appellate Court concurred with The State of Utah and Edwards' argument that the facts of this case are 'inextricably intertwined,' (see Exhibits 11, 14) Russel invokes the right to have *all* claims beyond this *Petition to Modify* heard in this venue.
21. Russel requests such other and further relief, as may be justified under the circumstances.

DATED this 24th day of February, 2025

Kirk Russel Marsh

Kirk Russel Marsh, Petitioner

Kirk Russel Marsh
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IN THE SECOND JUDICIAL DISTRICT COURT IN AND FOR
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In the matter of the marriage of:
LAUREN R. MARSH

and

KIRK RUSSEL MARSH

**MEMORANDUM IN SUPPORT
OF RUSSEL’S PETITION TO MODIFY
CHILD SUPPORT**

Civil No: 184701031

Commissioner: Christina Wilson

Judge: Michael Edwards

Memorandum in Support of Russel’s *Petition to Modify Child Support*

1. Russel argued the law in his March 29, 2024 *Petition to Modify* (see Exhibit A) and reiterates those arguments in this *Petition*.
2. Russel argued the law in his federal §1983 lawsuit dated March 29, 2024 and now enters the arguments from the federal proceedings into this *Petition* (see Exhibits 4-14).
3. The judgements dated August 16, 2019 violated Russel’s constitutional rights, and set a precedent for continuing violations of Russel’s constitutional rights, including but not limited to, the violation of Russel’s due process in the dismissal of his 2024 *Petition to Modify*.
4. On October 15, 2024 this Court entered *the U.S. Court of Appeals Informal Brief for Habeas* into this state divorce case record. On October 21, 2024, this Court sent Electronic Notifications to the parties in this divorce concerning their filing of the Informal Brief into the divorce records (see Exhibit 15). This Court violated Russel’s

rights to due process by submitting evidence into a proceeding to which they are not a party.

5. As this Court was selective in their additions to the divorce docket of filings from the federal §1983 lawsuit, Russel submits Exhibits 4-14 to fully brief the parties on the federal filings, and reiterates some of the arguments below. Russel reserves the right to call upon any other arguments in the Exhibits as necessary.
6. In 2019, Judge Edwards, on behalf of the state of Utah, mandated Russel pay an amount significantly more than his earnings in violation of child support guidelines (78B-12-302) and support rebuttal guidelines (78B-12-202 (3)), knowing that Russel did not have the ability to pay for an extended period, which would obligate Russel to further incarceration as per U.C.A. 76-3-203(3).
7. As per the child support guidelines established by Utah Civil Code 78B-12-302, Russel's support obligation should have been ordered as \$30 (for 3 children based on \$(0) adjusted gross income).
8. The Court's order in the August 16, 2019 supplemental decree of divorce stated, *"Respondent's parents are to facilitate Respondent's parent time by providing the transportation, care, housing, and supervision of the minor children for these parent time periods. Accordingly, one or both paternal grandparents shall accompany the transportation"* was in clear violation of Kirk and Shawnee's rights, as they were ordered to pay for expenses in a litigation of which they were not a party (see Court File).
9. Judge Edwards ordered that Lauren not be responsible for 1/2 of the child's travel expenses relating to Subsection (6)(c) (summer), overriding the guideline as a punitive

award to Lauren against Kirk and Shawnee Marsh (Utah Civil Code 30-3-37 - Expenses for travel) (see Court File).

10. Judge Edwards deviated from child support guidelines provided above, putting Russel in a situation of Judicial Entrapment, as per Utah Criminal Code 76-2-303 - Entrapment, by requiring payment of child support in excess of Utah statute and which Russel could not pay, depriving Russel of his constitutional right to liberty. This entrapment was created by Judge Edwards granting Lauren's demand for child support and expenses in violation of the statutes.
11. Judge Edwards simultaneously awarded all assets to Lauren, leaving Russel no resources for support payments, a violation of Russel's rights under the Eighth and Fourteenth Amendments. Unless a third party paid his obligations, Russel was entrapped into committing Federal Criminal Nonsupport with accompanying criminal charges, as per 18 U.S. Code § 228 - Criminal Nonsupport (see Court File).
12. Judge Edwards was overly influenced by Lauren and her influential family, creating a conspiracy to violate Utah and United States law and creating a situation of judicial entrapment, in violation of UCJA Rule 12 and 18 USC §24 - Conspiracy against rights.
13. From February 2018 - August 2019, after Lauren Marsh had requested support as a single mom with no personal income, Kirk David Marsh (Russel's father) had made voluntary payments to Lauren in the amount of \$700 per month. In addition to Kirk's payments, Lauren received an additional \$700/month from her parents.
14. As of August of 2019, Kirk Marsh had voluntarily paid Lauren Marsh \$700/month for support, and had been Court ordered to pay Lauren \$4000 for travel.

15. At the time of the 2019 trial, Lauren reported over \$131,000 in her bank account and was living rent free in a townhouse purchased by her parents.
16. In the divorce trial, Lauren (Petitioner) demanded the \$700 monthly gift from Kirk be ordered as a legal obligation of Russel (Respondent), rather than a gift from Kirk.
17. In his 2019 trial ruling, Judge Edward established lack of precedence for his actions when he said “Next, child support. Now, this is an interesting issue for the Court, one that I’ve not seen the like of” (see Court File).
18. The Judge ruled “*Effective September 1, 2019, Respondent shall pay child support to Petitioner using a sole physical custody calculation. Petitioner’s gross monthly income is \$1,803.00. Respondent’s income is \$60.00 per month. Under the low-income calculation, Respondent would only owe \$30.00 per month for child support. Given the facts of this case as set forth in the Findings, The Court has deviated from the child support guidelines, and Respondent shall pay Petitioner child support in the amount of \$700.00 per month for base child support.*”

The parties shall share the costs of medical and dental insurance, if any, equally. Any out-of-pocket medical, dental, orthodontic, or psychiatric care of their minor children shall share the costs as set forth in Utah Code Ann. § 78B-12-212

The child support order shall require that each parent share equally the reasonable work-related child care expenses of the parents.

Given the facts of this case, the reason for the respondent’s lack of earnings, his own fault, his own criminal conduct, the needs of the parties’ minor children for support, the Court finds that it is justified in deviating from the guidelines in ordering respondent to pay petitioner child support in the amount of \$700 per month for base child support. The

Court concludes that this is an appropriate amount after analyzing all the factors in Utah Code Section 78 (b) -12-202, subsection 3. And we can go through that explicitly if you feel like we need to, but this is a deviated order and it's deviated simply because it would be inequitable to the parties' children to order \$30 a month child support where their father is in prison because he committed a criminal act.

However, given the facts of this case and the Petitioner's move to Utah being made necessary by Respondent's criminal acts, Respondent shall pay the cost for his parent time with the minor children. Respondent's parents are to facilitate Respondent's parent time by providing the transportation, care, housing, and supervision of the minor children for these parent time periods. Accordingly, one or both paternal grandparents shall accompany the transportation (see Court File).

19. The decree section titled CHILD SUPPORT ARREARAGES reads “*There are no arrearages owed given the support payments received from both families by Petitioner.*” As this was the Court’s first ruling on child support, arrearages were an impossibility. However, the Court acknowledged the previously gifted payments of \$700/month, calling them “support payments” from both families (see Court File).

20. As Judge Edwards awarded Lauren all marital assets, and Russel’s income was \$60/month, Judge Edwards’ deviation from child support guidelines put Russel in a situation of Judicial Entrapment.

21. The first mandated payment (09/01/2019) put Russel in a position of unavoidable arrears - no assets, insufficient income, and no ability to earn more income. Base child support of \$700,

plus roughly \$300 in medical payments, accruing monthly, puts him in arrears of \$12,000 annually.

22. As per 18 U.S. Code § 228 regarding nonpayment of child support, Russel would be guilty of Criminal Nonsupport - Third Degree Felony, only 10 months after the divorce decree. As of September 1, 2019 Russel had 56 months remaining of his prison sentence.

23. The penalty for a third-degree felony is a maximum of five years in prison (pursuant to U.C.A. 76-3-203(3), a \$5,000.00 fine (pursuant to U.C.A. 76-3-301(1)(b)), or both.

24. Had Russel been criminally charged while incarcerated, he would likely have been subject to further incarceration on the sentence he was already serving - he would remain incarcerated for the three-year portion of his sentence dedicated to supervised release (probation). Upon release from Cumberland, Russel would face extradition to Utah to serve time for Criminal Nonsupport. The child support ruling endangered Russel to EIGHT additional years of incarceration for a crime that would be committed by one not otherwise ready to commit it.

25. From September 1, 2019 - December 31, 2023, Kirk and Shawnee Marsh paid Russel's support obligations. Kirk and Shawnee Marsh have been constitutionally and financially penalized in the matter. Due to Lauren's behavior, as of December 2023 they are no longer willing to offer financial resources to Lauren.

26. In an effort to adequately provide for his family in the future, Russel Marsh is a full time Ph.D. student studying Economic Policy. He has neither income nor resources to pay Lauren support.

27. Judge Edwards' obligation of a third party to pay Russel's child support and other expenses was outside the jurisdiction of the Court.

28. Judge Edwards' rulings, given to punish Russel for crimes already adjudicated, were punitive and outside his jurisdiction.

29. In May 2019, Kirk's willingness to pay for travel emboldened the Commissioner to *order* him to pay for Lauren's summer travel. However, in no way did this imply willingness to submit to ongoing legal obligation.

30. During a pretrial conference in August 2019, Kirk was asked if he would submit to the legal obligation of child support. Kirk responded that he would continue to make voluntary payments of \$700 but would not commit to an obligation.

31. The Judge ruled it appropriate for Russel to be obligated to a \$700/month payment previously gifted by Kirk. As Russel had no ability to pay, the Judge's order relied on Kirk's willingness to gift money to facilitate Russel's new legal liability.

32. Because Lauren was already being given \$700/month, the order suggests Judge Edwards was granting direct punitive actions against Russel and indirect punitive damages against Kirk.

33. The Judge's ruling necessitated not only a payment of \$700 but also medical, travel, and other expenses. This also included 100% of summer travel expenses given to Kirk and Shawnee, in violation of the statute for Russel and Lauren to share expenses as per Utah Civil Code 30-3-37: *Unless otherwise ordered by the court the relocating party shall be responsible for all the child's travel expenses relating to Subsections (6)(a) and (b) (Fall or holiday travel) and 1/2 of the child's travel expenses relating to Subsection (6)(c) (summer), provided the noncustodial parent is current on all support obligations.*

34. Because Kirk had no standing in the court in which to appeal, Kirk Marsh made monthly payments to Lauren of roughly \$1000 per month from September 2019 - December 2023

(~\$52,000). He also paid for all travel associated with the girl's visits to Russel, as he was ordered (~\$60,000).

35. In December of 2023, Lauren refused to release the children for Russel's parent time, and as a result Kirk Marsh paid an *additional* \$1000 to reschedule four round trip tickets from Utah to Virginia.

36. Kirk and Shawnee Marsh have been constitutionally and financially penalized in the matter. As of December 2023, they are no longer willing to gift money that supports Lauren's entitled and alienating behavior. Lauren is currently building a custom mansion exceeding 10,000 square feet in Alpine, Utah, on a lot purchased seemingly unencumbered for an excess of one million dollars.

37. Subsequently, Lauren has not received a payment from Kirk and Shawnee Marsh since December 2024, and has never received a payment from Russel.

38. The Court's order was punitive in that it did not follow the statutory guidelines for child support and travel expenses, with justification by the Court as the orders being a punishment for Russel's criminal actions.

39. Edwards later clarified when he was "*not* punishing (Russel) anew for the crimes he committed. You know, I'm not withholding his parent-time because he committed these financial crimes that were punished in the federal system" (see judge's transcript of orders on hearing, April 01, 2021).

40. On August 16, 2019 Judge Edwards' repeated statements that Russel's criminal acts are justification for the findings and deviation from statutes and rebuttal guidelines is a further violation of due process rights, as this became a further punishment for a crime already adjudicated, in violation of the Eighth and Fourteenth Amendments.

41. Judge Edwards opinion on bifurcation is echoed in his ruling of punitive damages:
“Again, my finding is that because the parties are where they are due to (Russel’s) criminal action, his opinion on the matter is reduced in importance to the Court based on those findings.”

42. In her bifurcation petition, Lauren states “Notably, in many senses, *I am the primary victim of Respondent’s criminal acts*. Indeed, the respondent engaged in criminal behavior in regards to several entities. But, the respondent was also fundamentally dishonest with me as I have described my previous Affidavit. Moreover, I suffer the daily financial and emotional fallout of Respondent’s criminal actions.” This evidence suggests Lauren’s focus on justifying her actions and ignoring the law.

43. Judge Edwards further facilitated Lauren by ordering one dollar of alimony, leaving the matter open for future amendment to ensure Lauren was awarded punitive damages for Russel’s future earning capacity.

44. *If* Lauren felt entitled to restitution, family court does not have jurisdiction to award damages from pain, suffering, or lost future earnings resulting from criminal proceedings.

45. Judge Edwards ruled the assets from the sale of the marital house were completely Lauren’s. The judge allowed *Petitioner to be awarded the entire \$120,000.00 in marital equity free and clear of any claims of Respondent*. Judge Edwards ruled “The Court would normally divide the \$120,000 in equity remaining in the property equally between the parties. However, where the Court has found that respondent dissipated at least \$60,000 of marital funds in the course of his illegal activities, the Court finds that it is equitable to award the entire \$120,000 in marital equity to the petitioner.”

46. In effect, Judge Edwards facilitated Lauren to use family court to levy judgments against Russel and his parents, Kirk and Shawnee Marsh, to be awarded restitution for unliquidated damages in violation of their Constitutional rights involving compensation for pain, suffering and loss of future earning capacity, awarding what were effectively punitive damages based on the criminal case.

47. After release from Cumberland, at Lauren's insistence, Judge Edwards ordered AFCC reunification counseling, paid for entirely by Russel.

48. As the Court gave the counselor complete control over Russel's parent time schedule, inability to pay would strip Russel of parent time, yet Russel had no ability to pay.

49. In order for Russel to see his children, Kirk Marsh paid the AFCC counselor, Dana Emmons, approximately \$5,000 for reunification therapy services.

50. Judge Edwards ordered Russel to submit to mediation, as well as half of associated costs, despite Russel having no income or assets. As Russel has had to submit to Lauren's will because he has no money for mediation, this ruling allows Lauren to strong-arm any decisions, as evidenced in her current filings.

51. Judge Edwards illegally ordered third parties to the suit, Kirk and Shawnee Marsh, to financial obligations. As Kirk and Shawnee are clearly outside his jurisdiction, he violated the scope of his authority.

DATED this 24th day of February, 2025

Kirk Russel Marsh

Kirk Russel Marsh, Respondent